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Security Council

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Letter dated 11 November 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 18 September 2003 (S/2003/910).

The Counter-Terrorism Committee has received the attached third report from Kuwait submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for this letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established
pursuant to resolution 1373 (2001)
concerning counter-terrorism

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Annex

[Original: Arabic]

Letter dated 10 November 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Sir,

With reference to your letter of 12 August 2003, I have the honour to transmit to you the third report of the State of Kuwait in reply to the questions raised by the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism.

(*Signed*) Mansour Ayyad Sh. A. **Al-Otaibi**
Chargé d'affaires a.i.

Enclosure

Second supplementary report of the State of Kuwait in reply to the questions raised by the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Introduction

Believing in the importance of combating terrorism through joint international action, the State of Kuwait wishes to cooperate fully with the Counter-Terrorism Committee and reply to all of the questions raised.

The State of Kuwait thus has the honour to submit to you its second supplementary report on the suppression of counter-terrorism.

Implementation measures

With regard to article 19 of the Suppression of Money-Laundering Act No. 35 of 2002, referred to on page 5 of the supplementary report, the Counter-Terrorism Committee would be grateful if it could be provided with an outline of the decree issued by the Minister of Finance on the measures and standards required to implement the provisions of this law, in particular those concerned with regulating alternative financial remittance systems such as *hawalah*. In addition, the Counter-Terrorism Committee would be grateful if it could be provided with Kuwait's strategy in regard to the regulation of the informal remittance sector.

The Ministry of Finance has promulgated a number of decrees implementing the above-mentioned Act, as follows:

1. Decree No. 15/2002, promulgated on 14 April 2002, concerning the legal and judicial procedures followed in regard to money-laundering;

2. Decree No. 252/2002, promulgated on 22 September 2002, concerning the directives to be adopted in order to combat money-laundering operations and the financing of terrorism;

3. Decree No. 9/2003, promulgated on 7 June 2003, concerning the requirement for passengers arriving in the country to declare all national or foreign currency, gold ingots or valuables in their possession worth over 3,000 Kuwaiti dinars;

4. Decree No. 10/2003, promulgated on 10 June 2003, establishing the Kuwaiti Financial Investigations Unit in the Central Bank of Kuwait.

In addition, on 22 October 2002, the Central Bank of Kuwait issued a number of directives to domestic banks on the suppression of money-laundering operations and the financing of terrorism. On 4 March 2003, it also issued directives to currency exchange businesses, stipulating that: "The undertaking of foreign remittance transactions shall be restricted to authorized correspondents who are so licensed by the competent official authorities in the countries where such correspondents are located." Consequently, financial remittances in the State of Kuwait must be made through official channels and no financial body subject to oversight by the Central Bank of Kuwait is permitted to make financial remittances through alternative systems such as that of *hawalah*.

The Counter-Terrorism Committee notes that all money boxes, collection boxes and kiosks used to collect donations of whatever kind are prohibited in Kuwait, as indicated on page 4 of the supplementary report. The Committee would be grateful for a further explanation indicating whether the prohibition referred to immediately above is regulated by a licensing system. If the answer to this question is in the affirmative, could the Government of Kuwait outline for the Committee the criteria applied by the Kuwaiti authorities to determine whether such boxes or kiosks can be used or not?

Boxes and kiosks for the collection of donations are prohibited, with the exception of those which are licensed. By administrative decree, a committee was formed in the Ministry of Social Affairs and Labour to inspect activities relating to charitable work. The committee is responsible for the oversight of all charitable bodies and commercial and economic establishments in Kuwait. It records any violations of the law licensing the collection of funds, the Clubs and Public Welfare Associations Act No. 24 of 1962 and their implementing decrees, and refers offenders to the competent judicial authorities after cautioning them to remedy the violations for which they are responsible.

Monetary donations can be collected only by standing payment order (monthly debit) through domestic banks, using the forms intended for that purpose, which must be approved and stamped by the Ministry in order to be valid. Boxes for the collection of monetary donations are operated by means of the approved monthly debit forms. The Ministry also conducted a full and thorough inspection of all kiosks, many of which it removed, permitting only a few to pursue their activity of collecting donations in accordance with the following rules:

1. Any kiosk used to collect donations must belong to a public welfare association involved in charitable work and declared by the Ministry in accordance with the provisions of Act No. 24 of 1962;

2. Monetary donations may be collected only by means of the standing payment order form approved by the Ministry and all other means of collecting donations shall be prohibited;

3. No kiosks may be set up for the collection of donations in kind, such as clothing, electrical equipment, furniture and so on;

4. Kiosks licensed by the Ministry shall be required to post in a visible position a notice from the Ministry stating the number of the licence, its date of issue and its period of validity;

5. Employees staffing a kiosk must have a valid permit of work for the association to which the kiosk belongs;

6. No monetary donations may be spent outside Kuwait without authorization from the Ministry, which shall ascertain the purpose of the spending in order to ensure that the funds are not diverted to suspect parties.

If a violation is detected at the time of the Ministry's physical inspection of such kiosks, the association to which the kiosk belongs is cautioned in writing to remedy the violation, failing which the Ministry will administratively remove the kiosk, taking the necessary legal action in that regard by withdrawing the kiosk licence and imposing the penalties stipulated in Act No. 24 of 1962. In addition, the matter is referred to the General Department of Investigations at the Ministry of the

Interior in accordance with the seriousness of the violation and the failure of the offender to respond to the cautions issued by the Ministry.

In that connection, the Ministry has produced a number of inspection forms and an application form for the collection of monetary donations, which all charitable associations must complete in accurate detail. The form must be signed by the officer-in-charge of the association and returned to the Ministry for its consideration and opinion.

The Ministry of Social Affairs and Labour also coordinates with the Ministry of Information concerning charitable bodies which declare the wish to collect donations, since these must first obtain the approval of the Ministry. Within the Ministry, the Department of Charitable Associations and Institutions has assumed the task of following up the activities of the charitable associations operating within the country and obtaining information on the assistance which they provide. It also prepares all the periodic reports on the subject of terrorism. Moreover, it has drawn up a comprehensive plan of action covering the steps taken by the Department to strengthen the oversight, monitoring and follow-up of all charitable work and activities undertaken in Kuwait in order to ensure compliance with the laws and implementing decrees on the subject and prevent the diversion of funds to suspect parties which may use them in terrorist operations.

Effective implementation of subparagraph 1 (b) of resolution 1373 (2001) requires a State to have in place provisions specifically criminalizing the wilful provision or collection, by any means, directly or indirectly, of funds by its nationals or in its territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. For an act to constitute an offence as described above it is not necessary that the funds should actually be used to carry out a terrorist offence (see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism). The acts sought to be criminalized are thus capable of being committed even if:

- **The only related terrorist act takes place or is intended to take place outside the country;**
- **No related terrorist act actually occurs or is attempted;**
- **No transfer of funds from one country to another takes place; or**
- **The funds are legal in origin.**

The current provisions of the law of Kuwait do not appear to meet the above-mentioned requirements adequately. The Counter-Terrorism Committee would welcome a progress report and an outline of the amendments foreseen by Kuwait with a view to meeting those requirements or, in their absence, an indication of the action which Kuwait intends taking in that regard.

Articles 48 and 52 of the Kuwaiti Penal Code No. 16 of 1960 make it clear that acts of financing terrorism are indirectly criminalized if they involve incitement or arrangement to perpetrate any terrorist offence, or assistance in the perpetration thereof, insofar as any person who commits such acts is regarded as an accomplice in the offence before it is committed and consequently receives the same punishment as the main offender.

The Office of the Attorney-General consequently takes the view that the activity of collecting funds with the intention of financing terrorism is, in all cases, subject to the criminalizing provisions contained in the aforementioned Kuwaiti Penal Code, as such activity is also punishable under the description of an arrangement, even if the offence does not take place, in accordance with article 56 of the Code, which stipulates that:

> "If two or more persons arrange to commit an offence, whether serious or less serious, and make preparations to do so in a manner which gives no reason to expect their abandonment of the arrangement, they shall each be deemed responsible for a criminal arrangement, even if the offence which is the subject of the arrangement did not take place.
>
> "Criminal arrangement shall be punished by a term of imprisonment of up to five years if the offence which is the subject of the arrangement is punishable by the death penalty or life imprisonment. If, however, the offence is punishable by a lesser penalty, the penalty for the criminal arrangement shall be a term of imprisonment of up to one third of that prescribed for the offence or a fine in an amount of up to one third of that prescribed for the offence.
>
> "Any person who promptly reports the existence of a criminal arrangement and the identity of the accomplices therein to the public authorities before they undertake an investigation and search and before any offence takes place shall be exempt from punishment. If the report is made after the investigation and search, it must lead to the arrest of the others involved in the arrangement."

The Counter-Terrorism Committee notes the policies adopted by Kuwait to regulate charitable work, including the establishment of the Supreme Committee to act as a permanent authority for the control of charitable work, as indicated in pages 3 and 4 of the supplementary report. Could the Government of Kuwait provide the Counter-Terrorism Committee with an outline of the regulations and by-laws used by the various competent authorities in Kuwait to implement these policies effectively?

There are several laws and by-laws which Kuwait observes in regulating charitable work, specifically:

1. The law licensing the collection of funds for public purposes;

2. The Clubs and Public Welfare Associations Act No. 24 of 1962, as amended;

3. Ordinance No. 101 of 1995 of the Minister of Social Affairs and Labour promulgating the regulations on the collection of donations.

Is there a special law on mutual assistance in criminal matters in Kuwait?

We would point out that the State of Kuwait has no special law on mutual assistance in criminal matters. It has, however, introduced a number of arrangements and procedures with a view to exchanging information and requesting assistance from States, special committees and relevant organizations on counter-terrorism measures. Domestic arrangements and procedures concerning the exchange of information are also in place. Mutual assistance in criminal matters, in fact, takes place between the State of Kuwait and all friendly States, either on the basis of bilateral, regional or international agreements for cooperation and mutual assistance

in judicial and criminal matters, or on the basis of reciprocity in accordance with the customary judicial practice.

Could Kuwait outline to the Counter-Terrorism Committee the relevant legal provisions under its domestic law concerned with preventing the counterfeiting, forgery or fraudulent use of identity papers and travel documents?

The Kuwaiti Penal Code No. 16 of 1960, as amended, criminalizes the act of forging documents of all types, among them official documents, which naturally include personal identity papers and travel documents. The forgery of official documents is regarded as a punishable offence for which the said Code imposes the heavy penalty of a term of imprisonment of up to seven years, to which may be added a fine. All of the above is stipulated in articles 257, 258, 259, 260 and 261 of the aforementioned Penal Code.

The Counter-Terrorism Committee has noted the inter-agency cooperation and exchange of information among the competent national authorities in Kuwait as referred to in pages 12-13 of the supplementary report. The Counter-Terrorism Committee would appreciate receiving information concerning similar mechanisms utilized by Kuwait in its relations with other States dealing with the exchange of operational information; especially regarding actions or movement of terrorist persons or networks, forged or falsified travel documents, and traffic in firearms or explosives.

The State of Kuwait cooperates with other States in exchanging the said information, either through the agreements which it has concluded with such States or through arrangement and direct joint coordination. It also cooperates with international organizations, such as the International Criminal Police Organization (Interpol), the Council of Arab Ministers of Interior, which has a liaison division in every Arab State, and the States of the Cooperation Council of the Arab States of the Gulf.

Other than the mechanisms established under the bilateral treaties referred to in page 6 of the first report and page 9 of the supplementary report, has Kuwait established any cooperative mechanisms with other States that are applicable in Kuwait and whose purpose is to provide other States with early warning of anticipated terrorist activity?

There is cooperation in this field, whether within the scope of bilateral agreements with a number of countries, through regional cooperation within the scope of the Cooperation Council of the Arab States of the Gulf or within the Arab scope through the Council of Arab Ministers of Interior.

The Counter-Terrorism Committee would welcome receiving a progress report on the bilateral cooperation treaties with other States, to which Kuwait refers in page 9 of its supplementary report but has still not ratified.

With regard to bilateral agreements relating to cooperation on security, the bilateral agreement concluded between the State of Kuwait and the Republic of Hungary on cooperation in the field of combating organized crime was promulgated pursuant to Decree No. 292/1998 of 13 December 1998. The constitutional procedures in regard to the two other agreements between the State of Kuwait and the Islamic Republic of Iran and the Republic of Bulgaria are currently under way.

The State of Kuwait has also signed agreements on legal and judicial cooperation with Tunisia, Egypt, Morocco, Bulgaria and Turkey, and the necessary constitutional procedures for ratification of the agreement on legal and judicial cooperation with the Syrian Arab Republic are under way.

The Counter-Terrorism Committee would welcome a progress report on parliamentary measures taken by Kuwait with a view to acceding to the remaining international instruments related to the prevention and suppression of terrorism, including the International Convention for the Suppression of the Financing of Terrorism, to which Kuwait is not as yet a party.

The State of Kuwait has ratified the following international conventions:

1. The Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, pursuant to Act No. 15 (2003) of 22 April 2003;

2. The Protocol on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, pursuant to Act No. 16 (2003) of 22 April 2003.

The Arab Convention on the Suppression of Terrorism, the Convention on the Physical Protection of Nuclear Materials and the International Convention for the Suppression of Terrorist Bombings remain on the agenda of the Foreign Affairs Committee of the National Assembly.

In regard to the International Convention for the Suppression of the Financing of Terrorism of 1998, it is still before the Council of Ministers, being under consideration in ministerial committees.

In regard to domestic laws, the State of Kuwait promulgated the Suppression of Money-Laundering Act No. 35 of 2002 and the Central Bank of Kuwait issued a decision by the Governor of the Bank on 23 June 2003 concerning the establishment of the Kuwaiti Financial Investigation Unit. A decision was also issued by the director of the Kuwaiti Securities Market concerning the rules on combating money-laundering operations and the financing of terrorism.

Could Kuwait describe to the Counter-Terrorism Committee the provisions which it has introduced into its domestic law, which correspond to the offences provided for in the international instruments against terrorism to which Kuwait is already a party? In particular, the Counter-Terrorism Committee would be interested in knowing whether those domestic provisions correspond to the prohibition of the financing, planning, facilitating and/or committing of terrorist acts, as provided for under any other international instruments to which Kuwait is already a party?

The Kuwaiti Penal Code No. 16 of 1960, as amended, contains an article which can be considered to fall within the scope of combating terrorist offences, namely article 170, which punishes "any person who gives a misleading signal or issues an announcement, instruction or warning which misguides a ship or an aircraft with intent to harm persons or things, or to damage means of conveyance, by a term of imprisonment of up to five years and a fine. The punishment shall be increased to a term of imprisonment of up to 15 years and a fine if such act leads to the serious injury of one or more persons. If it results in a person's death, the punishment shall be the death penalty or life imprisonment."

Act No. 6 of 1994 on offences relating to the safety of aircraft and aviation was also promulgated. Its provisions are in keeping with those of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, to which the State of Kuwait acceded pursuant to Decree-Law No. 64 of 1979.

Could Kuwait outline the statutory reasons for refusing requests for extradition? Are "political offences" considered a reason for refusing extradition under the domestic law of Kuwait? Could Kuwait provide the Counter-Terrorism Committee with the criteria which it uses to determine whether an offence constitutes a political offence under its domestic law? Are any of the offences mentioned under subparagraph 2 (c) of resolution 1373 (2001) considered as political offences under the domestic laws of Kuwait? If not, the Counter-Terrorism Committee would be grateful to be provided with an outline of the relevant domestic provisions.

We should like to state that no special law covering all the procedural and other rules concerning the extradition of criminals has been promulgated in the State of Kuwait. In that connection, however, efforts have been made to comply with the provisions contained in the various agreements on judicial and legal cooperation which the State of Kuwait has concluded with other friendly States.

In accordance with the provisions of those agreements, the State of Kuwait is not permitted to extradite in certain cases, including those involving political offences. The criterion for what are regarded as political offences is subject to the discretion of the requested State. In that regard, however, the rule is that terrorist offences are not regarded as political offences which bar extradition, as explicitly provided for in the cooperation agreements concluded with the Arab Republic of Egypt in 1977 (article 39), Tunisia in 1977 (article 39), Bulgaria in 1989 (article 37) and Turkey in 1998 (article 33).

As for the cases in which offenders may not be generally extradited in accordance with the overall provisions of cooperation agreements and the customary judicial practice of reciprocity, they are restricted to the following:

1. If the person to be extradited is a citizen of the requested State, in which regard the nationality at the time of perpetration of the offence is taken into consideration;

2. If the offence was committed in the territory of the requested State;

3. If the offence occurred outside the territory of the requesting State by a non-national of that State and the law of the requested State does not permit the bringing of charges for that offence;

4. If, at the time of the extradition request, legal proceedings have ended or the penalty has extinguished by prescription in accordance with the law of either State or a pardon in that regard has been issued in either State;

5. If the offence for which extradition is requested is confined to breach of military duty;

6. If a final verdict on the offence has been delivered in the requested State;

7. If the offence for which extradition is requested is regarded by the requested State as a political offence and is connected with a political offence;

In applying the provisions of these agreements, the following are not regarded as political offences:

(a) Offences involving an attack on the president of either State or on his wife, forebears or descendants;

(b) Offences involving an attack on the Crown Prince of the State of Kuwait or on the crown prince, first minister or vice-president of the other States;

(c) Terrorist offences as defined by the requested State;

(d) Offences of wilful killing or attempted wilful killing and offences of armed burglary and robbery with force.

The Counter-Terrorism Committee would be grateful to receive the organizational chart of Kuwait's administrative police machinery including the immigration office, referred to in page 15 of its supplementary report.

The State of Kuwait has nothing known as the Kuwaiti administrative police; the official name for the police machinery in Kuwait is the police force. At the request of the Committee, the organizational chart of the Immigration Office is annexed hereto.

The Counter-Terrorism Committee is aware that Kuwait may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The Counter-Terrorism Committee would be content to receive a copy of any such report or questionnaire as part of Kuwait's response to these matters, as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of resolution 1373 (2001).

The Ministry of Finance of the State of Kuwait, in conjunction with the competent domestic authorities, has completed and returned the questionnaire of the Financial Action Task Force on Money-Laundering (FATF).

Assistance and guidance

The Counter-Terrorism Committee is eager to facilitate the provision of assistance and advice in connection with the implementation of resolution 1373 (2001). The Committee would encourage Kuwait to let it know if there are areas in which assistance or advice might be of benefit to Kuwait in its implementation of resolution 1373 (2001) or of any areas in which Kuwait might be in a position to offer assistance or advice to other States on the implementation of resolution 1373 (2001).

Pursuant to the Suppression of Money-Laundering Act No. 35/2005, the Ministry of Finance is ready to use its expertise in this field to assist States which are still in the process of preparing measures and procedures for a law on money-laundering.

At this stage of its work, the Counter-Terrorism Committee will focus on requests for assistance that relate to "Stage A" matters. However, the assistance to be provided by one State to another on any aspect of the implementation of resolution 1373 (2001) is a matter for agreement between them. The Counter-

Terrorism Committee would be grateful to be kept informed of any such arrangements and on their outcome.

In regard to arrangements and implementing measures, which reflect the concern and efforts of the Kuwaiti Government in preparing and training human resources to apply the law on money-laundering, a number of training programmes and seminars on the suppression of money-laundering operations have been prepared and organized for those working in the relevant ministries and agencies of the State. Attention has also been devoted to profiting from the technical assistance provided by the International Monetary Fund and the World Bank in connection with technological matters, legislative and legal issues and training programmes and courses, namely:

1. A course on the suppression of money-laundering operations, held on 25 May 2002, for employees of banks and currency exchange businesses;

2. A course for the team which tracks wealth and money-laundering operations, held in the Arab Republic of Egypt during the period 13-22 April 2002 and attended by eight officers;

3. During the month of April 2002, the Institute for Legal and Judicial Studies organized an eight-hour course on the Suppression of Money-Laundering Act No. 35/2002 for representatives of the Office of the Attorney-General;

4. A special course on the suppression of money-laundering operations and the financing of terrorism was organized by the Ministry of Finance during the period 26-28 August 2000 with the aim of thoroughly informing the concerned employees of the latest developments in connection with moneylaundering operations and the financing of terrorism, familiarizing them with countermeasures and strengthening the capabilities of employees in the field of counter-operations. A number of the competent authorities in the concerned ministries and government departments participated in the course, together with representatives of domestic banks;

5. Several representatives of the Office of the Attorney-General dealing with public funds and narcotic drugs participated in a course on the rules governing the suppression of narcotics and money-laundering, held in Riyadh from 31 August to 12 September 2002 and organized by the Nayef Arab Academy for Security Sciences in conjunction with the United Nations Office on Drugs and Crime;

6. The General Administration of Customs, in conjunction with the United States Bureau of Customs and Border Protection and the United States Department of Justice, organized a seminar on money-laundering during the period 1-3 February 2003 in the State of Kuwait, which was attended by 16 representative bodies from the public and private sectors.

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Letter dated 11 November 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 May 2003 (S/2003/596).

The Counter-Terrorism Committee has received the attached third report from Senegal submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 11 November 2003 from the Permanent Mission of Senegal to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Senegal to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to transmit herewith, the second supplementary report of the Government of Senegal to the Committee (see enclosure).

Enclosure

Second supplementary report of Senegal on the implementation of the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism*

[Original: French]

In response to the comments and questions of the Counter-Terrorism Committee, and in addition to the initial and supplementary reports it has already submitted, the Government of Senegal hereby submits the information requested concerning the implementation of Security Council resolution 1373 (2001).

I. Implementation measures

1-2. Measures taken to give effect to the International Convention for the Suppression of the Financing of Terrorism in Senegalese domestic law.

An article of the Penal Code will be revised to state: "The act of directly or indirectly financing a terrorist undertaking by providing or managing any funds, assets or property, or offering advice to that end, with the intention that such funds, assets or property should be used or in the knowledge that they will be used, in whole or in part, to commit a terrorist act shall also constitute a terrorist act".

Anti-terrorism legislation is supported by banks and financial institutions, irrespective of their legal status, the location of their headquarters or main offices, and the nationality of their shareholders or directors.

Regulation No. 14/2002/CM/UEMOA on freezing funds and other resources applies to Senegal as well as to the other seven States members of the West African Economic and Monetary Union (WAEMU). It has been in effect since 19 September 2002.

1-3. Taking into account in Senegalese legislation the obligation imposed on financial institutions and other intermediaries like lawyers, brokers and notaries to report suspicious financial transactions.

States members of WAEMU were given a six-month period and a deadline of November 2003 to adopt Directive No. 7/0002/CM/UEMOA on the control of money-laundering as a uniform law.

Article 5 of this Directive determines the scope of the law, which applies to persons or entities which, as part of their business or profession, carry out, control or act as consultants for operations involving deposits, foreign exchange, investments, conversions or any other movement of capital or property, including:

* Annexes are with the Secretariat and are available for consultation.

- The Public Treasury, the Central Bank of West African States (BCEAO), financial organizations; independent members of the legal professions when they represent or assist clients in legal matters other than court proceedings; other persons subject to the law, including intermediaries of financial institutions; auditors; real estate agents; funds transfer agents; dealers in precious objects (paintings, precious stones and metals), owners, directors and managers of gambling houses and travel agencies; and non-governmental organizations (NGOs);
- Article 26 of the uniform law establishes the obligation of all persons and entities referred to in article 5 above to report suspicious transactions involving:
  - any sums of money and other assets which might be the proceeds of money laundering;
  - operations involving assets which might be part of a money-laundering process;
  - sums of money and all other assets where such assets are suspected of being intended to finance terrorism and seem to be the proceeds of operations related to money-laundering.

1-4. On articles 87 bis and 372 of the Code of Criminal Procedure and steps which Senegal intends to take in order to comply fully with the requirement to freeze funds used for terrorism.

The aforesaid Regulation No. 14/2002/CM/UEMOA authorizes the freezing of funds and other financial resources of persons, entities or organizations designated by the Committee. This list is drawn up by the WAEMU Council of Ministers.

The provisions of articles 87 bis and 372 of the Code of Criminal Procedure, superseding its article 372, state:

Article 87 bis

- "on receiving a request to initiate an investigation, the examining magistrate can automatically or at the request of the party or the Public Prosecutor's Office, order provisional measures to protect the assets of the accused".

Article 372 bis

- "The Court before which the case has been brought has the same authority as the examining magistrate to order the provisional protection measures referred to in article 87 bis".

1-5. On the mechanism to audit and monitor the use of funds by religious, charitable and other associations.

Prior to the adoption of the Uniform Law, Senegal had not dealt with the question of mechanisms for registering, auditing and monitoring the collection and use of resources by religious, charitable or other associations. This law provides for monitoring subject to regulations.

Moreover, since 19 September 2002, the matter has begun to be addressed under Regulation No. 14/2002/CM/UEMOA.

Indeed, article 2 of that Regulation calls for "establish[ing] rules on the freezing of funds and other financial resources in the States members by the persons referred to in paragraph 3 of Security Council resolution 1267 (1999) in order to prevent the use of WAEMU bank and financial networks to finance terrorism".

Article 4 of this Regulation sets out the conditions for applying measures to freeze funds and other financial resources. By that article, the freeze will apply to "all funds and other financial resources belonging to any natural or moral person, entity or organization designated by the sanctions committee".

It should be noted that this WAEMU regulation is applicable to NGOs as well.

1-6. On criminalizing the recruitment of persons intending to join the ranks of terrorist groups.

The revised Penal Code criminalizes association with the perpetrators of crimes as a terrorist act punishable under articles 238 to 240, where such criminal acts are committed intentionally against an individual or collective undertaking and are aimed at seriously disrupting the public order or the normal functioning of institutions by intimidation or terror.

1-7. On the procedure for the transmittal and sharing of information on terrorism.

The Ministry of the Interior of Senegal has units specializing in the prevention and control of terrorism within the General Directorate of National Security (DGSN). These include the Department of State Security (DSE), the Criminal Investigation Police Department (DPJ) and the General Intervention Brigade (BIP).

In conjunction with the National Central Bureau (BCN), these various units gather, centralize, use and exchange all information on terrorism in what amounts to the Senegalese equivalent of the International Criminal Police Organization (Interpol).

Cooperation with the intelligence services of friendly countries also facilitates effective prevention and control of this scourge. Such cooperaton is also practised by the security services of the Army and National Police.

1-8. On ratification of the Conventions on terrorism and their implementation in Senegalese domestic legislation.

Concerning anti-terrorism, it should be noted that Senegal has thus far ratified 8 of 12 United Nations conventions relating to terrorism. Among the four which it has not yet ratified, two will soon be reviewed by the National Assembly and the ratification process for the other two will be initiated very shortly (see summary document in annex).

Furthermore, from 15 July to 29 August 2002, the Penal Code and the Code of Criminal Procedure were reviewed by an interministerial working group overseen by the Ministry of Justice. The work of this group culminated in the submission to the Head of State of a draft law amending the Penal Code and a draft law amending the

Code of Criminal Procedure with a view to criminalizing certain crimes related to terrorism.

Hence, the draft law amending the Penal Code defines all terrorist acts recognized as crimes, specifying certain aspects such as ecological terrorism. Apologies for and the financing of terrorism are punishable. Penalties for terrorist acts include the death sentence or prison sentences ranging from life to 10 to 20 years plus fines.

An amendment of the Code of Criminal Procedure created specialized services within the Prosecutor's Office, including an office of examining magistrates specializing in information and units composed exclusively of examining magistrates with expertise in counter-terrorism and its prosecution.

The competence of the regional tribunal of Dakar, the Assize Court of Dakar and the Court of Appeal of Dakar in such matters extends throughout the national territory.

Investigators have sufficient authority to gather evidence. Hence, in accordance with the provisions of article 677-5 of the Code of Criminal Procedure, which derogates the provisions of articles 48 to 52 of that Code, homes "may be inspected or searched at any time of day or night upon written authorization from the judge hearing the case or from the Public Prosecutor, even without the consent of the person whose home is being searched".

On being advised, the Public Prosecutor in Dakar may assign a criminal investigation police officer specializing in anti-terrorism to carry out operations even in a case that had previously been handled by another criminal investigation police officer.

Under article 55 of the Code of Criminal Procedure, persons may be held in police custody for 48 hours under ordinary law, and this may be extended for another 48-hour period.

The period of police custody is twice as long for crimes and offences against State security. Under the new article 677-6 of the Code of Criminal Procedure, the period of custody may also be doubled in the case of terrorism.

The new provisions also make it possible to extend the time limit for prosecuting crimes related to terrorism by another 30 years. The time limit on the enforceability of sentences is 40 years from the date of the final decision.

Lastly, national criminal courts have universal jurisdiction in counter-terrorism matters.

1-9. The views of Senegal concerning the extradition of persons who have participated in terrorist activities, alleged to have been politically motivated.

With regard to extradition, it should be noted that, on the face of it, there is nothing against extradition in Senegalese legislation, provided that there is evidence of the link between such acts and their political nature or motive.

In any case, the judiciary authority (indictment division) must give its opinion on any request for extradition before a decision can be taken by the administrative authority.

II. Assistance and guidance

We should stress the importance of our country's need for assistance in the areas of rehabilitation, equipment and the strengthening of our facilities for printing and publishing legislative acts, regulations and, in particular, international legal instruments (covenants, conventions, treaties, agreements, supplementary arrangements) between Senegal and international organizations or other States in the Official Journal, which will make them fully enforceable and help to strengthen their effectiveness.

Assistance is also needed to train persons in the public and private sectors responsible for implementing international legal instruments, laws and regulations in the very sensitive field of counter-terrorism.

A list of material requirements is contained in the annex.

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Security Council

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Letter dated 19 November 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Burundi to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you the Global Ceasefire Agreement between the Transitional Government of Burundi and the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), signed at Dar-es-Salaam, United Republic of Tanzania, on 16 November 2003 (see annex).

The Government of Burundi hopes for the full support of the Security Council and the entire international community for this historic accord, concluded with a view to the establishment of lasting security and stability in Burundi.

I should like the text of this letter and its annex to be circulated as a Security Council document.

(*Signed*) Léonidas **Nkingiye**
Chargé d'affaires a.i.

03-62617 (E) 021203 031203

Annex to the letter dated 19 November 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Burundi to the United Nations addressed to the President of the Security Council

Global Ceasefire Agreement between the Transitional Government of Burundi and the National Council for the Defence of the Democracy-Forces for the Defence of Democracy (CNDD-FDD)

Dar-es-Salaam, 16 November 2003

Global Ceasefire Agreement

The Transitional Government of the Republic of Burundi and the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), hereinafter referred to as "the Parties",

Taking note of the Ceasefire Agreement of 2 December 2002, the Joint Declaration of Agreement of 27 January 2003 on the final cessation of hostilities, the Pretoria Protocol of 8 October 2003 on political, defence and security power-sharing in Burundi, the Pretoria Protocol of 2 November 2003 on outstanding issues of political, defence and security power-sharing in Burundi and the Protocol on the Technical Forces Agreement, all concluded between the Parties with a view to the establishment of lasting peace, security and stability in Burundi,

Recalling the principles and objectives of the Arusha Peace and Reconciliation Agreement for Burundi and the Transitional Constitution of the Republic of Burundi,

Recalling our commitment to respect and implement in good faith the agreements and protocols concluded for the purposes of ending the war and rebuilding Burundi,

Reaffirming our unshakeable determination to put an end to the root causes of the continuing situation of violence, bloodshed, insecurity, political instability, and exclusion, which has heaped distress and suffering on the Burundian people and is seriously compromising the prospects for economic development and the establishment of equality and social justice in our country,

Reaffirming our commitment to build a political order and system of Government in keeping with the realities of our country and based on the values of justice, political pluralism, respect for the fundamental freedoms and rights of the individual, unity, solidarity, mutual understanding, tolerance and cooperation,

In the presence of:

His Excellency **Jacob ZUMA**, Deputy President of the Republic of South Africa, Facilitator for the negotiation of the Ceasefire Agreement

His Excellency **Joachim CHISSANO**, President of the Republic of Mozambique and current President of the African Union

His Excellency **Yoweri Kaguta MUSEVENI**, President of the Republic of Uganda and President of the Regional Peace Initiative for Burundi

His Excellency **Dr. Ali Mohamed SHENI**, Vice-President of the United Republic of Tanzania

His Excellency **Joseph KABILA**, President of the Democratic Republic of the Congo

His Excellency **Méles ZENAWI**, Prime Minister of the Federal Democratic Republic of Ethiopia

His Excellency Ambassador **Berhanu DINKA**, Special Representative of the Secretary-General of the United Nations

His Excellency **Patrick MAZIMPAKA**, Vice-Chairperson of the Commission of the African Union

His Excellency **Charles MURIGANDE**, Minister for Foreign Affairs and Cooperation of the Republic of Rwanda

His Excellency **Ondo METHOGO**, Deputy Prime Minister of the Gabonese Republic

His Excellency **Ngunjiri NJUGUNA**, Ambassador of the Republic of Kenya to Tanzania

His Excellency **Joshua M. SIMYANDI**, Ambassador of the Republic of Zambia to Tanzania

We solemnly declare ourselves to be bound by the provisions of the following Global Ceasefire Agreement:

Article 1

The Global Ceasefire Agreement embraces the Ceasefire Agreement of 2 December 2002, the Joint Declaration of Agreement of 27 January 2003 on the final cessation of hostilities, the Pretoria Protocol of 8 October 2003 on political, defence and security power-sharing in Burundi, the Pretoria Protocol of 2 November 2003 on outstanding issues of political, defence and security power-sharing in Burundi, and the Pretoria Protocol of 2 November 2003 on the Technical Forces Agreement.

Article 2

The Global Ceasefire Agreement is an integral part of the Arusha Peace and Reconciliation Agreement for Burundi. It revokes all earlier conflicting provisions of the Arusha Agreement in relation to the CNDD-FDD Movement.

Article 3

Any constitutional, legislative or regulatory provisions which are inconsistent with this Agreement shall be amended as soon as possible in order to bring them into line with this Agreement.

Article 4

The Parties appeal to the Party for the Liberation of the Hutu People-National Liberation Forces (PALIPEHUTU-FNL) immediately to suspend hostilities and acts of violence and to join the negotiations with the Government as soon as possible.

If the PALIPEHUTU-FNL categorically refuses to resume negotiations, the signatories of this Agreement, the Regional Peace Initiative for Burundi, the African Union and the United Nations will deem it to be an organization inimical to the peace and security of Burundi and will treat it as such.

Article 5

The Parties undertake to implement in full the agreements listed below:

- The Ceasefire Agreement between the Transitional Government of Burundi and the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), signed on 2 December 2002;
- The Pretoria Protocol signed on 27 January 2003;
- The Pretoria Protocol on political, defence and security power-sharing in Burundi, signed on 8 October 2003;
- The Pretoria Protocol on outstanding issues of political, defence and security power-sharing, signed on 2 November 2003;
- The Technical Forces Agreement, signed on 2 November 2003.

Article 6

The agreements shall be implemented by the existing peace-process institutions in Burundi:

- The African Mission in Burundi;
- The Implementation Monitoring Committee;
- The Joint Ceasefire Commission.
- The implementation process shall be conducted in conformity with the timetable agreed upon in the agreements mentioned above.

Article 7

This Global Ceasefire Agreement shall enter into force on the day of its signature.

Article 8

Original copies of the French text shall be deposited with the Secretary-General of the United Nations, the Chairperson of the Commission of the African Union, and the Transitional Government of Burundi. Certified copies shall be kept by the Parties.

Signed at Dar-es-Salaam on 16 November 2003.

1. Signatories:

For the Transitional Government of Burundi

(*Signed*) His Excellency **Domitien NDAYIZEYE**
President of the Republic

For the National Council for the Defence of
Democracy-Forces for the Defence of Democracy

(*Signed*) Mr. **Pierre NKURUNZIZA**
Legal Representative

2. Co-signatories:

(*Signed*) His Excellency **Jacob ZUMA**
Deputy President of the Republic of South Africa, Facilitator

(*Signed*) His Excellency **Joachim CHISSANO**
President of the Republic of Mozambique
and current President of the African Union

(*Signed*) His Excellency **Yoweri Kaguta MUSEVENI**
President of the Republic of Uganda and President of the Regional Peace Initiative
for Burundi, guarantor of the implementation of the Global Ceasefire Agreement

(*Signed*) His Excellency **Alpha Oumar KONARE**
Chairperson of the Commission of the African Union

(*Signed*) His Excellency **Ali MOHAMED SHENI** on behalf of
His Excellency **Benjamin William MKAPA**
President of the United Republic of Tanzania

(*Signed*) His Excellency **Berhanu DINKA**
Special Representative of the Secretary-General of the United Nations